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Modified PTO/SB/33 (10-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number Q77431	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 10/664,867	Filed September 22, 2003
	First Named Inventor Jean-Michel LAURIOL	
	Art Unit 2617	Examiner Phuoc Huu DOAN

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23373
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Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

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April 14, 2006
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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Jean-Michel LAURIOL

Docket No: Q77431

Appln. No.: 10/664,867

Group Art Unit: 2617

Confirmation No.: 4318

Examiner: Phuoc Huu DOAN

Filed: September 22, 2003

For: METHOD AND SYSTEM FOR INFORMING A PERSON THAT A WLAN IS ACCESSIBLE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated November 18, 2005, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue.

Claims 1-6 and 8-15 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2003/0118015 to Gunnarsson (hereinafter "Gunnarsson"). Applicant respectfully traverses this rejection in view of the following comments.

Independent claims 1, 6, and 8 all include some variation of a mobile data terminal detecting signals broadcast by the WLAN, and informing of access to the WLAN by sending a signal from the mobile data terminal to the radiotelephone terminal. In conventional techniques, as described in the Background section of the application, the location of the mobile telephone is

compared against a database of known WLAN locations, and a message is sent to the mobile telephone when there is a known WLAN in the location of the mobile telephone. At least one problem with this is that it is based on stored information, and it may be, e.g., that the WLAN is not actually operational or is otherwise unavailable. According to the invention, a mobile data terminal (such as a portable computer) detects signals broadcasted by the WLAN and informs the radiotelephone terminal (such as a mobile phone) of access to the WLAN.

Gunnarsson is not different from the prior art technique disclosed in Applicant's specification. That is, in Gunnarsson, a mobile terminal 60 (a cellular phone), which communicates with a wireless communication network such as a TIA/EIA/IS-2000 network, is used to determine the user location (¶¶ 20 and 22). Then, the user location is compared to the known location and extent of WLANs 20, e.g., from a database or other information resource within the communication network 10 (¶ 22). The wireless communication network then sends a message to the mobile telephone 60 indicating whether there is access to WLAN. The mobile telephone 60 may then signal a wireless computing device 70 (such as a personal computer) causing the personal computer to power up and search for and connect to the WLAN (¶ 23).

Accordingly, it is clear that Gunnarsson does not detect the availability of the WLAN by having the wireless computing device 70 detect signals broadcast from the WLAN but instead by having the mobile telephone network compare the mobile telephone 60 location to known WLAN locations. It is also clear that Gunnarsson does not inform of access to the WLAN by sending a signal from the wireless computing device 70 to the radiotelephone terminal 60.

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Turning to the Examiner's position, the Examiner maintains that the mobile data terminal and the radiotelephone terminal as set forth in some variation in claims 1, 6, and 8 are disclosed by Gunnarsson's wireless computing device 70 and mobile terminal 60, respectively. However, the Examiner further alleges that Gunnarsson in ¶ 20 discloses: detecting presence of the WLAN by receiving signals broadcasted by the WLAN with a radio receiver associated with said mobile data terminal and which is adapted to receive signals broadcasted by the WLAN. In support of this position, the Examiner provides the following quote from Gunnarsson: "'may comprise a message **broadcast to all mobile terminals**'" (*see* page 2 of the Final Office Action mailed November 11, 2005 and page 2 of the Advisory Action mailed March 27, 2006).

The actual quote of Gunnarsson set forth in ¶ 20 recites:

> In one embodiment of the present invention, wherein the determination of the location of a mobile terminal 60 is simply an identification of the cell 12 or sector in which the mobile terminal 60 is operating, the alert ***transmitted by the wireless communication network 10*** if a WLAN 20 is available in the cell 12 or sector (as described more fully below) may comprise a message broadcast to all mobile terminals 60 in the relevant cell 12 or sector. (emphasis added)

In other words, the signal broadcast to the terminals is **from the mobile phone network**, **not from the WLAN** as is required in claim 1. Gunnarsson discloses a conventional technique of determining presence of WLAN based on the "known location and extent of WLANS 20...the location of the WLAN 20 may be stored in various databases and other information resources within the [cellular] communication network 10" (¶ 22). Gunnarsson fails to disclose

determining in real-time the presence of WLAN. Since the WLAN information is stored in a place such as a database, if the WLAN is broken, the user will still be informed about the presence of WLAN in the Gunnarsson technique.

Furthermore, in Gunnarsson, the signal is sent to the mobile telephone 60 and not to the wireless computing device 70. Gunnarsson does not disclose having the **mobile data terminal 70 sending a message to the mobile telephone 60 advising it that a WLAN has been detected**, as is required in claims 1, 6 and 8. Gunnarsson instead sends a message to the mobile telephone 60 from the mobile telephone network, and the signal is not telling the mobile telephone 60 that a WLAN signal has been detected but instead that **there "should" be one there somewhere**. Then, the mobile telephone 60 sends a message to the wireless computing device 70 to cause the wireless computing device 70 to try to connect to the WLAN (¶ 23).

In short, Gunnarsson does not disclose or suggest "detecting presence of the WLAN by receiving signals broadcasted by the WLAN with a radio receiver associated with said mobile data terminal...and when the radio signals broadcasted by the WLAN are received, sending a signal or a message from said mobile data terminal to said radiotelephone terminal equipped with an adapted receiver, informing said person that he or she can access to said WLAN," as set forth in some variation in the independent claims 1, 6, and 8.

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For at least these exemplary reasons, claims 1, 6, and 8 are patentably distinguishable from Gunnarsson. Therefore, Applicant respectfully requests the Pre-Appeal Board to reverse this rejection of claims 1, 6, and 8 and their dependent claims 2-5 and 9-15.

Respectfully submitted,

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